

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

NICHOLAS A. DAVIS,	)	
	)	
Plaintiff,	)	
vs.	)	NO. CIV-08-0550-HE
	)	
OKLAHOMA COUNTY, ET AL.,	)	
	)	
Defendants.	)	

**ORDER**

Plaintiff Nicholas A. Davis, a state prisoner appearing *pro se* and *in forma pauperis*, instituted this action under 42 U.S.C. § 1983, alleging violations of his constitutional rights. Consistent with 28 U.S.C. §636(b)(1)(B), the matter was referred for initial proceedings to Magistrate Judge Robert E. Bacharach. He has recommended that the motion for summary judgment filed by the plaintiff be denied.

The plaintiff has filed an objection [Doc. #89], challenging the magistrate judge's conclusion that the plaintiff's motion as to certain claims is moot because those claims have been resolved by prior orders. The plaintiff's argument is not persuasive.

Accordingly, the court adopts Magistrate Judge Bacharach's Report and Recommendation and **denies** the plaintiff's motion for summary judgment [Doc. #56]. The court also, as recommended by the magistrate judge, **refers** the matter to Magistrate Judge Bacharach to notify the parties of their right, pursuant to Fed.R.Civ.P. 73, to consent to referral of the action to a magistrate judge and to consider the possibility of court-appointed

counsel for the plaintiff.<sup>1</sup>

**IT IS SO ORDERED.**

Dated this 23 day of Nov., 2009.

  
\_\_\_\_\_  
JOE HEATON  
UNITED STATES DISTRICT JUDGE

---

<sup>1</sup>See Doc. #90.